

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)	
)	
v.)	CRIMINAL NO. 04-10265-DPW
)	
MARIE P. CALABRARO)	

JOINT MOTION TO COMBINE RULE 11 HEARING AND SENTENCING
AND DISPENSE WITH PRESENTENCE INVESTIGATION

Pursuant to Fed. R. Crim. P. 32(c)(1)(A)(ii), defendant, Marie P. Calabraro, and the government, move that the Court (1) sentence Ms. Calabraro at the conclusion of the Rule 11 hearing, and (2) dispense with the preparation of a presentence investigation report because the Court has sufficient information to exercise its sentencing authority meaningfully. In support of this motion, the parties state as follows:

1. Ms. Calabraro is 55 years old. She was born and lived all of her life in the Boston area. She completed the 12th grade at St. Thomas Aquinas High School in Jamaica Plain. Ms. Calabraro married John Calabraro in October 1978 and lives with him in Dorchester. Mr. Calabraro is retired. Ms. Calabraro has no children. She has been unemployed since March 2004. Prior to March, 2004, Ms. Calabraro had worked for 19 years for the U.S. Postal Service.

2. Ms. Calabraro has no criminal record.

3. Ms. Calabraro has been charged with a single count of theft of mail for opening a piece of mail on March 11, 2004 while on the job for the U.S. Postal Service in violation of 18 U.S.C. § 1709. Specifically, on March 11, 2004, Ms. Calabraro was an employee of the U.S. Postal Service, employed at the Lafayette Station in Boston, Massachusetts. As part of an investigation at the Lafayette Station, a piece of Express Mail, # ER 921898314 US was prepared by U.S. Postal Service investigators. It contained \$500. At approximately 11:55 a.m.

on March 11 that piece of Express Mail was accepted by a window clerk at the Lafayette Station. At approximately 12:40 p.m., Ms. Calabraro opened the piece of Express Mail and removed the \$500. Ms. Calabraro was promptly apprehended carrying the opened Express Mail piece and turned over the \$500 to the investigators.

4. The applicable Guideline is Section 2B1.1. Under Section 2B1.1, Ms. Calabraro faces a base offense level of 6 and no increase for the amount of the loss because the loss was less than \$5,000. Ms. Calabraro's guideline level would also be adjusted with a two-level increase for abuse of a position of trust under U.S.S.G. § 3B1.3, application note 1 ("because of the special nature of the United States mail an adjustment for an abuse of a position of trust will apply to any employee of the U.S. Postal Service who engages in the theft or destruction of undelivered United States mail"), and decreased by two levels for acceptance of responsibility under U.S.S.G. § 3E1.1. Ms. Calabraro's adjusted offense level therefore is 6. Because she is in Criminal History Category I, she faces an applicable guideline sentencing range of 0-6 months. In reaching this conclusion, counsel for both the United States and Ms. Calabraro have each, separately, reviewed the facts in this case and the application of the Guidelines to the facts.

5. The parties agree that a probationary sentence is appropriate for Ms. Calabraro, that restitution is not an issue in this case, that Ms. Calabraro does not have sufficient assets to pay a fine and is not likely to be able to pay a fine in the future, see U.S.S.G. § 5E1.2(e), and will be required to pay a \$100 special assessment. The parties agree that the Guidelines set an applicable probationary range of between one and five years. U.S.S.G. § 5B1.2(a)(1).

6. Based upon the foregoing, the parties suggest that the Court has sufficient information "to meaningfully exercise its sentencing authority under 18 U.S.C. § 3553," Fed. R.

Crim. P. 32(c)(1)(A)(ii), and, therefore, to sentence Ms. Calabraro without a presentence investigation or report.

7. Defense counsel has discussed this motion with Deputy Chief Probation Officer John Bocon. Mr. Bocon has indicated that, if the Court imposes a probationary sentence on Ms. Calabraro without a presentence report, the Probation Office will still supervise her and will obtain whatever information it needs to properly supervise her after sentence has been imposed. According to Mr. Bocon, to date in this district, 41 defendants have been sentenced in 2004 without the preparation of a presentence report.

8. In this case, the Court has sufficient information to sentence Ms. Calabraro without going through the time and cost of preparing a presentence report.

For these reasons, the parties request that the Court sentence Ms. Calabraro immediately after her Rule 11 hearing.

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